



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

FEB - 9 2011

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-133

CERTIFIED MAIL – 7009 1410 0002 1489 0961
RETURN RECEIPT REQUESTED

NOTICE OF NONCOMPLIANCE

Mr. Larry Peltz
Manager, Dworshak Fisheries Complex
U.S. Fish and Wildlife Service
Dworshak National Fish Hatchery
4147 Ahsahka Road
Ahsahka, Idaho 83520

Re: Notice of Continuing Noncompliance for Cold Water Aquaculture
NPDES Permit Number IDG131003

Dear Mr. Peltz:

This Notice of Noncompliance (NON) is issued under the Clean Water Act (CWA), 33 U.S.C. § 1251 *et seq.* This NON is issued consistent with Executive Order (E.O.) 12088, 43 Fed. Reg. 47707 (October 13, 1978). Section 313(a) of the CWA, 33 U.S.C. §1323(a), and E.O. 12088 provide that each Executive agency must comply with the same substantive, procedural, and other requirements that would apply to a private person under the CWA.

On December 11, 2008, the U.S. Environmental Protection Agency (EPA) issued a Notice of Violation (NOV) to the U.S. Fish and Wildlife Service (USFWS) concerning ongoing violations at the Dworshak National Fish Hatchery (Facility). Since that time, EPA has been in discussions with USFWS and its partners concerning the need to quickly achieve full compliance with the *Cold Water Aquaculture Facilities in Idaho* General National Pollutant Discharge Elimination System (NPDES) Permit (Permit).

At this time, USFWS has resolved all but two permit violations set forth in the December 11, 2008 NOV. The two ongoing permit violations are as follows:

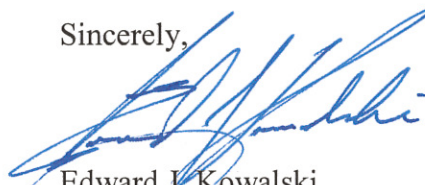
- The Facility discharges untreated cleaning wastes from Burrows System III on approximately a weekly basis in violation of Section II.B.2.d of the Permit; and

- Part of the Facility's flow is measured on approximately a monthly basis with methods not currently meeting approval criteria described in Section II.A of the Permit.¹

Between December 2007 and the present, the Facility has accumulated over two-hundred ninety (290) violations. EPA strongly encourages USFWS to resolve the continuing Permit violations at the Facility as soon as possible. EPA believes that the Facility should strive to achieve compliance with the Permit in the near term. Every month that the Facility is out of compliance with the Permit, it continues to accrue permit violations.

Please contact Chris Gebhardt of my staff at (206) 553-0253 or Courtney Weber, Assistant Regional Counsel, at (206) 553-1477, if you have any questions about this letter or your responsibilities under the CWA.

Sincerely,



Edward J. Kowalski
Director

cc: Lieutenant Colonel D.A. Caldwell
U.S. Army Corps of Engineers

Ed Larson
Nez Perce Tribe Hatchery

Scott Bettin
Bonneville Power Administration

Toni Hardesty
Idaho Department of Environmental Quality

Kerby Cole
Idaho Department of Environmental Quality

¹ The NOV defined the violation as an inability to measure flow. Discussions since then have clarified the violation to be the use of non-standard flow measuring devices still unapproved by Idaho Department of Water Resources.